

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 04-4189

Coy Stephen Lyons,	*	
	*	
Plaintiff-Appellant,	*	
	*	
Davison Transport, Inc.,	*	
	*	Appeal from the United States
Intervenor-Plaintiff,	*	District Court for the Eastern
	*	District of Arkansas.
v.	*	
	*	[UNPUBLISHED]
Potlatch Corporation,	*	
	*	
Defendant-Appellee.	*	
	*	

Submitted: October 14, 2005
Filed: March 6, 2006

Before BYE, BEAM, and SMITH, Circuit Judges.

PER CURIAM.

Coy Stephen Lyons, a tanker-truck driver for Davison Transport, Inc., appeals the district court's¹ grant of summary judgment to Potlatch Corporation (Potlatch) in

¹The Honorable J. Thomas Ray, United States Magistrate Judge for the Eastern District of Arkansas, sitting by consent of the parties pursuant to 28 U.S.C. § 636(c).

Lyons' diversity suit against Potlatch for negligence under Arkansas law. The district court held that Potlatch owed Lyons, a business invitee, a duty to use ordinary care to maintain its Cypress Bend mill facilities in a reasonably safe condition while Lyons unloaded sodium hydrosulfide (NaHS) at the mill in September of 1996. The court found that Potlatch did not violate that duty. The court also found that Potlatch did not exercise control over the NaHS unloading process, rendering inapplicable a duty under Arkansas law to exercise reasonable care in exercising such control. See Elkins v. Arkla, Inc., 849 S.W.2d 489, 490 (Ark. 1993). We agree with both conclusions.

We have carefully considered Lyons' arguments to the contrary. Upon de novo review, Liszewski v. Target Corp., 374 F.3d 597, 599 (8th Cir. 2004), we find no error in the district court's grant of summary judgment and affirm on the basis of its well-reasoned memorandum order, see 8th Cir. R. 47B.
